



DEPARTMENT OF TREASURY

2017 Data Collection under the Terrorism Risk Insurance Program

AGENCY: Departmental Offices, Department of Treasury.

ACTION: Notice.

SUMMARY: The Terrorism Risk Insurance Act requires the Secretary of the Treasury to collect, from insurers that participate in the Terrorism Risk Insurance Program, information regarding insurance coverage for terrorism losses. The information is to be used by the Secretary in connection with reports analyzing various aspects of the Program. Participating insurers are directed to report information identified in a series of forms approved by the Office of Management and Budget through a web portal that has been established for that purpose. Participating insurers are required to respond to this data call, subject to certain exceptions identified in this Notice.

DATES: Certain data must be submitted not later than May 15, 2017, with the balance of any remaining information to be provided by October 1, 2017.

ADDRESSES: Participating insurers will submit the identified data after registration at a web portal that has been established for this data collection. A link to the web site where participating insurers can commence the registration process can be found at <https://www.treasury.gov/resource-center/fin-mkts/Pages/program.aspx>.

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410, Department of Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220, at (202) 622-2922 (this is not a toll-free number), Kevin Meehan, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office,

202-622-7009 (not a toll free number), or Lindsey Baldwin, Senior Policy Analyst, Federal Insurance Office, 202-622-3220 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

Congress enacted the Terrorism Risk Insurance Act of 2002 (TRIA)¹ based, in part, upon its recognition that widespread unavailability of terrorism risk insurance “could seriously hamper ongoing and planned construction, property acquisition, and other business projects, generate a dramatic increase in rents, and otherwise suppress economic activity.”² TRIA requires insurers to make coverage available for certain lines of commercial property and casualty insurance.³ To assist insurers with the financial exposure resulting from this required offer of coverage, TRIA established the Terrorism Risk Insurance Program (TRIP or Program), under which certain losses resulting from an “act of terrorism” (as defined by TRIA) are eligible for reimbursement through the Program. The Program is administered in the Department of Treasury (Treasury) by the Secretary of the Treasury (Secretary) with the assistance of the Federal Insurance Office.⁴

TRIA originally authorized the Program for a three-year period ending December 31, 2005. The Program has since been reauthorized three times, most recently in the Terrorism Risk Insurance Program Reauthorization Act of 2015 (2015 Reauthorization Act),⁵ which extended the Program until December 31, 2020. Among other reforms and changes, the 2015

¹ 15 U.S.C. 6701 note. Because the provisions of TRIA, as amended, appear in a note of the United States Code, references to the provisions of TRIA are identified by the sections of the law (e.g., “TRIA section 102(1) (definition of an ‘act of terrorism’)”).

² TRIA section 101(a)(5).

³ See TRIA section 103(c).

⁴ 31 U.S.C. 313(c)(1)(D).

⁵ Pub. L. 114-1, 129 Stat. 3.

Reauthorization Act requires insurers participating in the Program to submit to the Secretary, beginning in calendar year 2016, “such information regarding insurance coverage for terrorism losses of such insurers as the Secretary considers appropriate to analyze the effectiveness of the Program” This information and data includes information regarding: (1) lines of insurance with exposure to such losses; (2) premiums earned on such coverage; (3) geographical location of exposures; (4) pricing of such coverage; (5) the take-up rate for such coverage; (6) the amount of private reinsurance for acts of terrorism purchased; and (7) such other matters as the Secretary considers appropriate.⁶

Treasury conducted a voluntary data call in 2016, to avoid inadvertently imposing an unanticipated level of burden on participating insurers. In that year, before implementing regulations were effective, Treasury utilized a single reporting template approved by the Office of Management and Budget (OMB) on an emergency basis without a formal public notice and comment period. Data collected from the insurers that elected to respond to this request formed the basis for Treasury’s first report under the 2015 Reauthorization Act addressing the effectiveness of the Program.⁷

On December 21, 2016, Treasury issued Final Rules concerning, among other things, its data collection authorities under the Program.⁸ On December 27, 2016, Treasury published the data collection forms that it proposed to use for the 2017 data call, and invited the public to provide comments concerning those proposed forms.⁹ Treasury received seven comments

⁶ TRIA section 104(h)(1) (2015 Reauthorization Act, Section 111).

⁷ See Department of Treasury, Report on the Overall Effectiveness of the Terrorism Risk Insurance Program (June 2016), *available at* https://www.treasury.gov/initiatives/fio/reports-and-notice/Documents/2016_TRIP_Effectiveness_%20Report_FINAL.pdf.

⁸ 81 Fed. Reg. 93756 (Dec. 21, 2016); *see* 31 CFR 50.50-50.54.

⁹ 81 Fed. Reg. 95310 (Dec. 27, 2016).

concerning the forms.¹⁰ In response, and as discussed further below, Treasury has made a number of modifications to the forms and has also in certain ways modified the manner in which Treasury will collect the identified data. OMB has approved the use of these forms under Control Number 1505-0257.

II. Data Collection Forms and Procedures

The collection templates proposed for use in calendar year 2017 are based upon the form created for use in calendar year 2016, although certain changes were made based upon experience derived from the 2016 voluntary data call. The principal change was that Treasury developed four separate templates for use, depending upon the type or size of insurer providing information. Each insurer group (or individual company if not affiliated with a group) will fill out the template identified “Insurer (Non-Small) Groups or Companies,” unless the insurer meets the definition of a small insurer, captive insurer, or alien surplus lines insurer as set forth in 31 CFR 50.4. These insurers are required to complete different forms that are more specifically tailored to their operations.

Each form is accompanied by a separate “data dictionary” applicable to the form, which contains specific instructions to complete each data element. In its initial notice seeking public comment, Treasury set forth the general instructions concerning what type of form each participating insurer must complete.¹¹ These instructions remain the same; however, Treasury is

¹⁰ Treasury received comments from the American Insurance Association (AIA), the Property Casualty Insurers Association of America (PCIAA), the National Association of Mutual Insurance Companies (NAMIC), the International Underwriting Association of London (IUA), Lloyd’s of London (Lloyd’s), Signal Mutual Indemnity Association Ltd. (Signal), and an individual, James Murray (Murray). The comments are available at <https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=commentDueDate&po=0&D=TREAS-TRIP-2017-0002>. References to these comments are incorporated below where appropriate.

¹¹ See 81 FR 95310 (Dec. 27, 2016). In general, small insurers (31 CFR 50.4(z)) are insurers who for purposes of the 2017 data collection, which is otherwise requesting information from calendar year 2016, had **2015** policyholder surplus and **2015** direct earned premium of less than \$600,000,000 (or five times the 2016 Program Trigger of \$120,000,000). In addition, a small insurer with less than \$10,000,000 in TRIP-eligible lines direct earned premium in calendar year 2016 is not required to provide any data. Captive insurers (31 CFR 50.4(g)) are insurers licensed

now clarifying that insurers that participate in the Program because they have been authorized by the Federal Government to provide insurance for various purposes¹² should complete the alien surplus lines template. Treasury has provided further specific instructions in the associated data dictionary concerning completion of the reporting template by these insurers.

Commenters made a number of suggestions concerning the manner in which data should be collected and provided specific suggestions concerning individual data elements and the instructions concerning those elements. Several commenters¹³ suggested that Treasury could collect certain workers' compensation insurance elements through the National Council on Compensation Insurance (NCCI) and other rating bureaus that collect workers' compensation insurance data in order to fulfill the obligation of participating insurers to report such information. In response to these comments, Treasury has arranged with NCCI and the California Workers' Compensation Insurance Rating Bureau (California WCIRB) to provide (either directly or through other workers' compensation rating bureaus) the workers' compensation insurance elements of the data call relating to premium and payroll information, including as allocated to specific geographic areas and across industry groups, with the exception

under the captive insurance laws or regulations of any state, and are all subject to the same captive insurer template regardless of size. However, to the extent a captive insurer writes policies in TRIP-eligible lines of insurance, but does not actually provide its insureds with any terrorism risk insurance subject to the Program, the captive insurer is not required to provide data. Alien surplus lines insurers (31 CFR 50.4(o)(1)(i)(B)) are insurers not licensed or admitted to engage in the business of providing primary or excess insurance in any state, but that are eligible surplus line insurers listed on the NAIC Quarterly Listing of Alien Insurers. To the extent an alien surplus lines insurer is part of a larger group that is subject to reporting under either the "Insurer (Non-Small) Groups or Companies" or "Small Insurers" template, the information for that alien surplus lines insurer should be reported as part of the larger group, using the proper template. The "Alien Surplus Lines" template is to be used by any other alien surplus lines insurer, regardless of size, that is not part of a larger group. Such alien surplus lines insurers must report, at least for calendar year 2017, even if they fall within the \$10,000,000 premium threshold otherwise required for small insurers to report.

¹² See TRIA, § 102(6)(A)(iii); 31 CFR 50.4(o)(1)(C). The Alien Surplus Lines template should also be used by Federally-approved insurers subject to the Program that are approved or accepted for the purpose of offering property and casualty insurance by a Federal agency in connection with maritime, energy, or aviation activity, but only to the extent of such Federal approval of property and casualty insurance coverage offered by the insurer in connection with maritime, energy, or aviation activity.

¹³ See AIA Comments at 4; PCIAA Comments at 2; NAMIC Comments at 1.

of private reinsurance arrangements associated with workers' compensation insurance. This will eliminate the need of insurers to report this information separately, and the data aggregator will provide such insurers with reporting templates that do not require completion of this workers' compensation data. Instead, that information will be provided by NCCI and/or the California WCIRB and then merged into the information provided directly by the reporting insurers.

Several commenters requested that Treasury delay the data collection deadline. In support of this request, commenters cited the fact that this is the first year of mandatory collection, and that a delayed reporting date would allow insurers more time to verify and compile information, leading to more accurate submissions.¹⁴ Commenters supported the permissibility of this position by noting that Treasury's report in 2017 focuses upon small insurers, and that information required from other insurers would not be relevant to that report such that it could be reported at a later date.¹⁵

Treasury selected the data reporting deadline of May 15 in the Program Rules in response to comments indicating that the initial proposed date of March 1 interfered with pre-existing state insurance data production requirements. Treasury chose May 15 as the latest date to obtain the necessary data and still reasonably complete its statutory reporting obligations, which are due each year on June 30.¹⁶ Even though Treasury's 2017 report will be focusing upon small insurers, information provided by other insurers will be relevant to put into context the participation of small insurers in the terrorism risk insurance marketplace.

To address the concerns raised by commenters while still meeting its statutory

¹⁴ See Lloyd's Comments at 1; IUA Comments at 1-2.

¹⁵ See Lloyd's Comments at 1; IUA Comments at 1-2; Murray Comments at 1. One commenter suggested that a later date would be consistent with a reporting date of October 1 that has been established for the reporting to state regulators of certain terrorism risk insurance information by alien surplus lines insurers. See Lloyd's Comments at 1; IUA Comments at 1.

¹⁶ See 81 FR 93756, 93761 (Dec. 21, 2016).

obligations, Treasury will, for 2017 only, limit the amount of data that needs to be provided by May 15, 2017 by all insurers to general registration, premium and policy counts, policy exposures, and reinsurance (the information that is reportable by small insurers).¹⁷ Additional information (for package or multi-line policies, standalone terrorism insurance, policyholder industry codes, and geographic exposures) must also be submitted by insurers other than small insurers, and may be submitted with the initial submission by May 15. If this additional information is not provided with the initial submission, it must be provided separately no later than October 1, 2017. Because all insurers will have taken the necessary steps to compile data in 2017, Treasury will not grant extensions of the May 15 deadline in future years.

One commenter suggested that the reporting forms were not geared to reporting by Federally-approved insurers that are subject to the Program.¹⁸ In response, and as noted above, Treasury has modified the instructions to provide further guidance as to how such insurers should respond to the 2017 data call, and will consider the development of a separate form for such insurers for future collections.

Several commenters suggested the establishment of a telephone “helpline” and the hosting of a public webinar to assist reporting insurers that have questions concerning the data collection requirements.¹⁹ Treasury (through its data aggregator) will establish such a helpline, and will also host a public webinar concerning the process to assist reporting insurers in responding to the proposed collection. Details concerning participation in the webinar will be made available on Treasury’s website at <https://www.treasury.gov/resource-center/fin->

¹⁷ The worksheets for non-small insurers, alien surplus lines insurers, and captive insurers that cover the information that is also reported by small insurers differ from the small insurer worksheets in minor ways. Reporting insurers will still complete the relevant worksheets of their own data reporting template, even though it will differ somewhat from the small insurer template.

¹⁸ See Signal Comments at 1.

¹⁹ See AIA Comments at 4; PCIAA Comments at 2.

mkts/Pages/program.aspx. Treasury personnel, as identified above, may also be contacted directly in connection with questions and guidance for completion of the data collection templates.

Treasury also received a number of written comments addressing technical changes or questions concerning the reporting forms. In response, Treasury has modified the instructions in a number of ways to clarify the information sought, and in some cases to reduce the burden of reporting that might otherwise be presented by the collection as originally proposed (for example, by adding fields to allow insurers to report unallocated values that have not been specifically coded within the insurer's existing systems).²⁰

III. Data Call

Treasury, through an insurance statistical aggregator, has established the web portal identified above, through which insurers will be able to submit the identified data. Reporting insurers should visit this link in order to register for the 2017 data collection. Copies of the collection forms (image files only) are also available at the link identified above; however, reporting insurers will obtain the fillable forms that they will use for reporting directly from the data aggregator once they register for the data collection process. As noted above, reporting insurers are required to submit completed data forms containing data related to premium and policy counts, policy exposures, and reinsurance no later than May 15, 2017; the remaining data requested must be submitted no later than October 1, 2017. The insurance statistical aggregator will provide instructions on how to submit completed forms, and will also be available to answer questions related to the completion of the forms.

²⁰ Other examples of such technical changes include manner in which policy count information should be entered in connection with multiple line and multiple jurisdiction situations (*see* AIA Comments at 4-5), confirmation as to how property insurance limits should be entered in specific situations (*see* AIA Comments at 6), and inconsistency in certain of the template headings vis-à-vis the instructional materials (*see* AIA Comments at 5).

All information submitted via the web portal is subject to the confidentiality and data protection provisions of TRIA and the Program Rules, as well as to section 552 of title 5, United States Code, including any exceptions thereunder. In accordance with the Paperwork Reduction Act, (44 U.S.C 3501 et seq.), the information collected through the web portal has been approved by OMB under Control Number 1505-0257. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

Dated: April 25, 2017.

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